

current emission levels from nuclear power plants provide adequate protection of public health with an ample margin of safety and due to EPA's prior statement when it previously issued stays of subpart I that the stay would have little or no adverse effects on public health. In addition, Congress evidenced its desire to avoid unnecessary and duplicative regulation by passing section 112(d)(9) and therefore it is clear that a stay during the pendency of the rulemaking would be in the public interest.

Response: Based on the available data, EPA agrees that the issuance of the stay will have little or no adverse effect on public health. EPA also agrees that issuance of this final rule will further the Congressional objective of avoiding unnecessary and duplicative regulation, by relieving affected facilities of the burdens of demonstrating compliance with the standard during the rulemaking on rescission.

D. Miscellaneous

1. Paperwork Reduction Act

There are no information collection requirements in this rule.

2. Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether this regulation is a "major rule" and therefore subject to certain requirements of the Order. The EPA has determined that issuing this stay of subpart I for nuclear power reactors will result in none of the adverse economic effects set forth in section I of the Order as grounds for finding a regulation to be a "major rule." This regulation is not major because the nationwide compliance costs do not meet the \$100 million threshold, the regulation does not significantly increase prices or production costs, and the regulation does not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets.

The Agency has not conducted a Regulatory Impact Analysis (RIA) of this regulation because this action does not constitute a major rule.

3. Regulatory Flexibility Analysis

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an "initial regulatory flexibility analysis" which describes the effect of the rule on small business entities. However, section 604(b) of the Act provides that an analysis will not be required when the head of an Agency

certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This rule staying 40 CFR part 61 subpart I for nuclear power reactors will have the effect of easing the burdens associated with immediate compliance with subpart I and I therefore certify that this rule will not have significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 61

Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous Substances, Mercury, Radionuclides, Radon, Reporting and Recordkeeping requirements, Uranium, Vinyl chloride.

Dated: July 28, 1991.

William K. Reilly,
Administrator.

For all of the reasons given in the preamble, part 61 of title 40 of the Code of Federal Regulations is amended to read as follows:

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7414, 7416, 7601.

2. Section 61.109 of subpart I of part 61 is amended by designating the current text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 61.109 Stay of effective date.

* * * * *

(b) The effective date for subpart I is stayed for commercial nuclear power reactors which are licensed by the Nuclear Regulatory Commission until the date on which EPA takes final action concerning its proposal to rescind subpart I for nuclear power reactors pursuant to section 112(d)(9) of the Clean Air Act, as published on August 5, 1991. EPA will publish any such final action in the Federal Register.

[FR Doc. 91-18506 Filed 8-2-91; 8:45 am]

BILLING CODE 6580-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[DA 91-896]

Editorial Amendment of Part 97 of the Commission's Rules Regarding the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action deletes an alternative power measurement standard from part 97 of the Commission's Rules. The rule change is necessary because the exception to the power standard that was applicable to amateur stations transmitting emission type A3E has expired. The effect of the rule change is to remove this expired standard from the amateur service rules.

EFFECTIVE DATE: September 9, 1991.

FOR FURTHER INFORMATION CONTACT: William T. Cross, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554 (202) 632-4964.

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Commission's *Memorandum Opinion and Order*, adopted July 15, 1991, and released July 24, 1991. The complete text of this Commission action, including the rule amendments, is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 1919 M Street, NW, Washington, DC. The complete text, including the rule amendments, may also be purchased from the Commission's copy contractor, Downtown Copy Center (DCC) (202) 452-1422, 1114 21st Street NW., Washington, DC 20036.

2. The action taken herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520, and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements and will not increase or decrease burden hours imposed on the public.

3. The amended rules are set forth at the end of this document and are issued under the authority of 47 U.S.C. 154(i) and 303 (c) and (r).

List of Subjects in 47 CFR Part 97

Radio, Emission types, Power.
Federal Communications Commission.
Ralph A. Haller,
Chief, Private Radio Bureau.

Amended Rules

Part 97 of chapter 1 of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

2. Section 97.313(b) is revised to read as follows:

§ 97.313 Transmitter power standards.

(b) No station may transmit with a transmitter power exceeding 1.5 kW PEP.

[FR Doc. 91-18422 Filed 8-2-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 910498-1098]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA announces the closure of the recreational salmon fishery in the exclusive economic zone (EEZ) from the U.S.-Canada border to Cape Alava, Washington, at noon, July 24, 1991, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined that the recreational fishery quota of 23,300 coho salmon for the subarea will be reached by noon, July 24, 1991. The closure is necessary to conform to the preseason announcement of 1991 management measures. This action is intended to ensure conservation of coho salmon.

DATES: *Effective:* Closure of the EEZ from the U.S.-Canada border to Cape Alava, Washington, to recreational salmon fishing is effective at 1200 hours local time, July 24, 1991. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts, as provided by 50 CFR 661.20, 661.21, and 661.23.

Comments: Public comments are invited until August 15, 1991.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: Joe Scordino at 206-526-6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by notice issued under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

In its preseason notice of 1991 management measures (56 FR 21311, May 8, 1991), NOAA announced that the 1991 recreational fishery for all salmon species in the subarea from the U.S.-Canada border to Cape Alava, Washington, would begin on July 1 and continue through the earliest of September 26 or the attainment of either a subarea quota of 23,300 coho salmon or the overall recreational quota of 40,000 chinook salmon north of Cape Falcon, Oregon. Based on the best available information on July 23, the recreational fishery catch in the subarea from the U.S.-Canada border to Cape Alava, Washington, is projected to reach the 23,300 coho salmon quota by noon, July 24, 1991. Therefore, the fishery in this subarea is closed to further recreational fishing effective 1200 hours local time, July 24, 1991.

In accordance with the season notice procedures of 50 CFR 661.20, 661.21, and

661.23, actual notice to this closure was given prior to 1200 hours local time, July 24, 1991, by telephone hotline number (206) 526-6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 KHz. NOAA issues this notice of closure of the recreational salmon fishery in the EEZ from the U.S.-Canada border to Cape Alava, Washington, which is effective 1200 hours local time, July 24, 1991.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the Washington Department of Fisheries regarding a closure of the recreational fishery between the U.S.-Canada border and Cape Alava, Washington. The State of Washington will manage the recreational fishery in State waters adjacent to this area of the EEZ in accordance with this federal action. This notice does not apply to treaty Indian fisheries or to other fisheries that may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted through August 15, 1991.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 30, 1991.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-18469 Filed 7-31-91; 11:06 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 56, No. 150

Monday, August 5, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 574

[No. 91-155]

RIN 1550-AA36

Agency Disapproval of Directors and Senior Executive Officers of Savings Associations and Savings and Loan Holding Companies

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: If adopted, this proposal would implement section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Public Law No. 101-73, 103 Stat. 183, 484-5, ("section 914"), by adding a new section to 12 CFR part 574. The new section would require certain savings associations and savings and loan holding companies to file a notice with the Office of Thrift Supervision (the "OTS") prior to adding or replacing a member of the board of directors, and prior to employing, or changing the responsibilities of an individual in a position or into another position, as senior executive officer. Section 914 grants the OTS the authority to disapprove any proposed board member or senior executive officer of a savings association or savings and loan holding company whose service is not considered to be in the best interests of the depositors of the savings association or the public.

DATES: Comments must be received on or before September 4, 1991.

ADDRESSES: Comments should be directed to: Director, Information Services Division, Office of Communications, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at 1776 G Street, NW., Street Level.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Kaplan, Staff Attorney (202) 906-7508; V. Gerard Comizio, Acting Deputy Chief Counsel (202) 906-6411, Corporate and Securities Division; Jodie S. Jacobs, Attorney, Enforcement (202) 906-7959; Kevin L. Petrasic, Assistant Chief Counsel, Regulations and Legislation Division (202) 906-6452; Julie L. Williams, Senior Deputy Chief Counsel (202) 906-6459; Mary Jo Johnson, Policy Analyst, Supervision (202) 906-5739, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 1989, President Bush signed FIRREA into law. Section 914 of FIRREA, which added section 32 of the Federal Deposit Insurance Act ("FDIA"), codified at 12 U.S.C. 1831i, requires certain savings associations and savings and loan holding companies to furnish the OTS with at least 30 days notice before adding any individual to the board of directors or employing any individual as a senior executive officer. A savings association or savings and loan holding company is subject to the notice requirement if the savings association or savings and loan holding company: (1) Has been chartered less than two years in the case of a savings association; (2) has undergone a change in control within the preceding two years; or (3) is not in compliance with the minimum capital requirements applicable to such saving association or is otherwise in a "troubled condition," as determined "on the basis of the savings association's or the savings and loan holding company's most recent report of condition or report of examination or inspection."

Section 914 prohibits a savings association or savings and loan holding company from adding an individual to its board of directors, or employing an individual as a senior executive officer, if the OTS issues a notice of disapproval with regard to the addition or employment of such individual. In this regard, the OTS must disapprove a notice under this section if it finds that the competence, experience, character, or integrity of an individual indicate that it would not be in the best interests of the depositors of the savings association or the public for the individual to be employed by, or associated with, the

savings association or savings and loan holding company.

The requirements of section 914 have been in effect since enactment of the FIRREA, August 9, 1989. The OTS is proposing to implement this regulation in order to clarify various issues that have arisen in the application of the new provisions.

Issues

The application of section 914 to savings associations and savings and loan holding companies presents a number of issues, discussed below. Comment is invited on these and any other issues related to the regulation.

1. Definition of "Senior Executive Officer"

The term "senior executive officer" is defined to include the president, chief executive officer, chief operating officer, chief financial officer, chief lending officer, chief investment officer, general counsel or their functional equivalents, or any individual who exercises significant influence over, or participates in, major policy making decisions of a savings association or savings and loan holding company without regard to title, salary or compensation.

The term "senior executive officer" also includes any employees of another entity, such as a consulting firm, hired to perform the functions of positions covered by the regulation on behalf of a savings association or savings and loan holding company.

2. Definition of "Troubled Condition"

a. Savings Associations

For purposes of the notice requirements of section 914, the term "troubled condition" with respect to savings associations is defined to mean a savings association: (1) That has received a composite MACRO rating of 4 or 5 in its most recent report of examination; (2) that is subject to a capital directive or a formal enforcement action or proceeding or a written agreement entered into with the OTS, relating to the safety or soundness or financial viability of the savings association; or (3) that is informed in writing by the OTS that it has been designated in "troubled condition" for purposes of the requirements of section 914 as a result of its current financial

statements or report of examination, inspection, or limited scope review of the association or its holding company.

In addition, a savings association that fails to meet all of its applicable regulatory capital requirements under 12 CFR part 567 is subject to the section 914 notice requirement.

b. Savings and Loan Holding Companies

For purposes of section 914, the term "troubled condition" with respect to a savings and loan holding company is defined to mean a savings and loan holding company:

(1) That is subject to either a formal enforcement action or proceeding or a written agreement entered into with the OTS, relating to the safety or soundness or financial viability of its subsidiary savings association;

(2) That is informed in writing by the OTS that it has been designated in "troubled condition" for purposes of the requirements of section 914 as a result of the current financial statements or report of examination, inspection, or limited scope review of the holding company or its subsidiary association; or

(3) That the OTS determines is having a detrimental or burdensome effect on its subsidiary savings association or that requires more than the normal level of supervision.

3. Prior Notice Requirement

Three categories of savings associations and savings and loan holding companies must file a notice of intent to add a director or employ a senior executive officer. The first category includes savings associations that have been chartered and fully operational for less than two years.

The second category includes savings associations or savings and loan holding companies that have directly or indirectly undergone a change in control within the preceding two years, subject to the Change in Bank Control Act, 12 U.S.C. 1817(j) (or if a change in control occurred within the preceding two years and prior to the passage of the FIRREA, the Change in Savings and Loan Control Act, formerly 12 U.S.C. 1730(q)), or the Savings and Loan Holding Company Act, 12 U.S.C. 1467a, and the regulations promulgated under these provisions at 12 CFR part 574. Thus, the change in control standard for application of the section 914 requirements is triggered for a savings association if there is a direct change of control of the savings association or a change in control of the association's holding company. In the case of a savings and loan holding company, the change of control would, of course, occur at the holding company

level. In both cases, the change in control includes acquisitions of control subject to prior notice or approval under either the Change in Bank Control Act or the Savings and Loan Holding Company Act. However, upon written request to the OTS, the OTS may determine that the transactions involving existing approved control parties and acquisitions of control that do not result in substantive changes of control will not be deemed to be a change of control triggering the requirements of section 914.

The OTS also seeks comments as to whether, in the context of a mutual savings association, the filing of Reports of change in control of mutual savings associations, 12 CFR 563.181, would trigger a change in control for purposes of the section 914 notice requirement, or whether the OTS should treat a change in the highest-ranking officials of a mutual association, e.g. the chief executive officer or chief operating officer, as constituting a change in control of the association for purposes of the two-year applicability thereafter of the notice requirements of section 914.

The third category includes savings associations not in compliance with all of the minimum capital requirements established pursuant to 12 CFR part 567 and savings associations or savings and loan holding companies that are otherwise deemed to be in a "troubled condition," as described above.

Failure to file prior notice of intent to add a director or employ a senior executive officer may require immediate resignation of the subject individual and may subject the individual, the savings association or savings and loan holding company to enforcement actions, including assessment of civil money penalties.

4. Promotions of Senior Executive Officers and Re-election of Directors

An additional issue under section 914 is whether the notice requirement covers senior executive officers of a savings association or savings and loan holding company that are promoted or laterally transferred to another position as a senior executive officer of the same association or holding company. The rule makes clear that the section 914 notice requirement applies where a senior executive officer is promoted or transferred to a new position as a senior executive officer or where there is a "change in responsibilities" of any individual resulting in a senior executive officer position, notwithstanding that such "change in responsibilities" is not accompanied by a change in title or salary.

With respect to the applicability of section 914 to the "proposed addition of any individual to the board of directors," the rule also clarifies that section 914 covers not only increases in board membership but also replacements, filling of vacancies on the board, and a "change in responsibilities" of any individual resulting in his or her assumption of a director position. The notice requirement would also apply to a senior executive officer who is proposed as a director of the savings association or savings and loan holding company and to a director who is offered employment as a senior executive officer. However, the provision is not intended to apply to a re-election of a director who is already serving on the board of directors of a savings association or savings and loan holding company.

5. Effective Date

Section 914 became effective upon the signature of the President on August 9, 1989. Accordingly, all savings associations and savings and loan holding companies that were subject to one of the three categories of applicability under section 914 upon enactment of the FIRREA, were at that time subject to the notice requirements.

Thus, every savings association that was chartered less than two years on the date of enactment of the FIRREA, and every savings association or savings and loan holding company that was subject to a change in control within the two years preceding the date of enactment of the FIRREA, was subject to the notice requirements of section 914 for the remainder of the two year period after the enactment of the FIRREA. For example, a savings association that underwent a change in control in November 1988 is covered by the requirements of section 914 until November 1990; therefore, a notice is required for any addition to the board of directors or any employment of a senior executive officer effected prior to November 1990 that occurred after the date of enactment of the FIRREA.

6. Effect on Other Statutes

Although the section 914 notice requirement applies to, among others, a savings association that has been chartered less than two years and a savings association or savings and loan holding company that has undergone a change in control within the preceding two years, certain other statutory provisions also permit the OTS to require a similar notice in the same situations. In this regard, for example,

section 914 does not displace or supersede OTS's authority implied in section 5(e) of the HOLA, 12 U.S.C. 1464(e), to require, as a condition of granting a charter, prior review of proposed changes in executive officers for three years after a savings association is chartered. Such a condition has been imposed on new thrift charters for many years and, unlike the prior review authority in section 914, is not subject to a limit of 30 days on the OTS's review.

Similarly, the OTS believes that section 914 does not replace or repeal section 7(j)(12) of the FDIA, 12 U.S.C. 1817(j)(12), which states that whenever a change in control occurs, the bank or savings association "shall report promptly * * * any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period * * *". This authority similarly does not require the OTS to complete its review and act on any such report within 30 days.

Nor does section 914 displace or repeal any provision of section 8(b) of the FDIA, 12 U.S.C. 1818(b), which authorizes the OTS to include a provision in a cease and desist order requiring a savings association to take "affirmative action to correct the conditions resulting from [any] violation or practice." Under this authority, the OTS can require a savings association to obtain prior approval from the OTS before a proposed individual becomes a director of, or is employed by a savings association. This authority is also not subject to a requirement that review of requests be completed within 30 days.

Other statutes may also provide authority to review changes in executive officers or directors of savings association or savings and loan holding companies and similarly, are not preempted by the section 914 process.

Procedural Requirements

1. Required Information

Section 914 provides that the information required under section 7(j)(6)(a) of the FDIA and such additional information as the OTS may require by regulation is required in notices filed under this section. In particular, section 914 of the FIRREA requires the OTS to review the competence, experience, character, and integrity of an individual proposed for a position as a director or senior executive officer of a savings association or savings and loan holding company.

Notices filed under this section shall be on OTS Form 1393, Biographical and Financial Report, which requests the

identity, personal history, business background, and experience of the individual, including financial statements and other relevant financial data, pending legal or administrative proceedings, and an explanation of any criminal indictment or conviction involving the individual. The OTS may modify these requirements where appropriate, but in no event will the OTS require less information than is required by section 7(j)(6)(A) of the FDIA, and the OTS may request additional information necessary to permit a full evaluation of the competence, experience, character, or integrity of the individual with respect to whom the notice has been filed, or of the public interest factors the OTS must consider.

2. Special Notice Rule for Publicly-Held Diversified Savings and Loan Holding Companies

The existence of multi-tiered diversified savings and loan holding companies, where the subsidiary savings association of such savings and loan holding company represents a small percentage of the aggregate operations of such company, presents a unique issue for the OTS in implementing section 914. Accordingly, the OTS has determined that abbreviated notice requirements will be available for multi-tiered diversified savings and loan holding companies that have a class of equity securities registered under the Securities Exchange Act of 1934 and that, therefore, already prepare substantial information regarding their directors and senior officials. With respect to such companies, a Form 1393 for a subject individual will be required only for persons employed by, or serving on the board of directors of, the savings and loan holding company that directly controls a savings association. However, if such savings and loan holding company is a "shell," i.e., a minimally capitalized company without substantial assets and lacking independent operations, then that company and its immediate parent company, i.e., the company that controls such shell company, shall also be required to provide a Form 1393 for its directors and senior executive officers. In addition, in the event such second company also is a shell, then the company above it shall be subject to such requirements, and so on, until at least one savings and loan holding company in the line of ownership that is not a shell is subject to the notification requirements of this provision.

Companies in a multi-tiered diversified savings and loan holding

company structure that are not required to submit Form 1393 by virtue of this special rule may satisfy the OTS's notice requirements under section 914 by submitting: (1) Copies of materials that are used in the savings and loan holding company's securities disclosure documents filed pursuant to the Securities Exchange Act that provide information on the individual to which the notice pertains, and (2) the OTS's RB-20 certification regarding such individual's involvement in certain types of legal proceedings. Where such material is not available, then the regular notice requirements will be applicable.

Notwithstanding this special rule, the OTS may require any such additional information as is necessary to adequately evaluate a notice filed under this section.

3. Who May File

The OTS has determined that the notice shall be submitted by the savings association or savings and loan holding company. Each individual, on whose behalf a notice is filed, must certify that, to the best of his or her knowledge and belief, all of the information filed is true, correct, complete and made in good faith and a senior official of the savings association or savings and loan holding company must certify that the information pertaining to that individual has been reviewed by the filing savings association or savings and loan holding company and that the information submitted is consistent with information obtained through a background investigation conducted by the savings association or savings and loan holding company. Where the interests of the individual and the savings association or savings and loan holding company are at odds, such as a proxy contest situation, the notice may be submitted to the OTS directly by the individual. In such case, the individual must certify that he or she provided the savings association or savings and loan holding company all non-confidential information contained in the notice and likewise, certify that, to the best of his or her knowledge and belief, all of the information filed is true, correct, complete and made in good faith.

4. Processing Timeframes

After the initial filing of a notice pursuant to section 914, the OTS will conduct a completeness review of the filing. This initial review is solely for the purpose of determining whether sufficient information is included in the notice for the agency to assess the competence, experience, character, and

integrity of the subject individual. In this regard, if the submitting party has not been notified to the contrary by the OTS within 15 days after submission of the notice, then the notice will be deemed complete as of the date of the original filing of the notice with the agency. However, in circumstances where new information becomes available to the OTS after a notice has been deemed complete, the agency may deem a notice not complete and request additional information, if necessary. In the event that additional information is required, the OTS will contact the appropriate party to request such information. Such party should attempt to respond accurately and completely to the additional information request within 15 days. After a submission is deemed complete, the agency will either disapprove or issue a notice of intention not to disapprove the notice within 30 days of the completeness date. If the OTS does not take either of such actions, the notice will be deemed not disapproved 30 days from the date of completeness.

5. Notice Requirement

Notices are required to be filed for the two years after a savings association has been chartered, for the two years after a savings association or savings and loan holding company has directly or indirectly undergone a change in control, or if a savings association or savings and loan holding company is in a troubled condition. Under the literal language of the provision, a notice is not required to be filed for individuals who will join an association or holding company simultaneously with the chartering of such savings association or at the time a savings association or a savings and loan holding company undergoes a change in control. In this regard, the OTS notes that due to the fact that substantially identical standards for evaluating managerial resources exists under the Change in Bank Control Act and the Savings and Loan Holding Company Act, it would be duplicative to require a section 914 notice in these circumstances, particularly in light of the fact that the same form (OTS Form 1393) is being used for both purposes.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), it is certified that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

Executive Order 12291

OTS has determined that this proposal is not a "major rule" and therefore does not require a Regulatory Impact Analysis.

List of Subjects in 12 CFR Part 574

Administrative practice and procedure, Holding companies, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision hereby proposes to amend part 574, subchapter D, chapter V, title 12, Code of Federal Regulations as set forth below:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

1. The authority citation for part 574 continues to read as follows:

Authority: Sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a; sec. 2(7), 64 Stat. 876, as amended (12 U.S.C. 1817).

2. New § 574.10 is added to read as follows:

§ 574.10 Additions of directors and employment of senior executive officers of savings associations and savings and loan holding companies.

(a) *Definitions.* As used in this section and in the forms under this section, the following definitions apply, unless the context otherwise requires:

(1) *Director.* The term *director* means any individual who serves on the board of directors of a savings association or savings and loan holding company, except that such term does not include an advisory director who was not elected by the shareholders of the savings association or savings and loan holding company and is not authorized to vote on any matters before the board of directors, but provides only general policy advice to the board of directors. However, the term does include an advisory director who performs the same functions as a director or who exercises significant influence over, or participates in, major policy making decisions of the board of directors of a savings association or savings and loan holding company.

(2) *Senior Executive Officer.* The term *senior executive officer* means any individual who exercises significant influence over, or participates in, major policy making decisions of a savings association or savings and loan holding company without regard to title, salary, or compensation. The term includes but is not limited to the president, chief executive officer, chief operating officer, chief financial officer, chief lending officer, chief investment officer, general counsel, or their functional equivalents. The term also includes employees of

entities retained by a savings association or savings and loan holding company to perform such functions in lieu of directly hiring the designated individuals.

(3) *Troubled Condition.* The term *troubled condition* means:

- (i) Any savings association:
 - (A) That has a composite rating of 4 or 5 under the MACRO Rating System; or
 - (B) That is subject to a capital directive or a formal enforcement action or proceeding with the Office, or a written agreement entered into with the Office, relating to the safety and soundness or financial viability of the savings association; or
 - (C) That is informed in writing by the Office that it has been designated in *troubled condition* for the purposes of this section based on the current financial statements or report of examination, inspection, or limited scope review of the savings association; or
- (ii) Any savings and loan holding company:
 - (A) That is subject to a formal enforcement action or proceeding with the Office, or a written agreement entered into with the Office, relating to the safety and soundness or financial viability of its subsidiary savings association; or
 - (B) That is informed in writing by the Office that it has been designated as in *troubled condition* for the purposes of this section as a result of the current financial statements or report of examination, inspection, or limited scope review, or periodic filings or other filings of the holding company or its subsidiary savings; or
 - (C) That the Office determines is having a detrimental or burdensome effect on its subsidiary savings association or that requires more than the normal level of supervision.

(b) *Prior Notice.* A savings association or savings and loan holding company shall provide written notice to the Office at least 30 days prior to the effective date of any addition or replacement of a member of the board of directors, or the employment or change in responsibilities of any individual to a position as a senior executive officer or director, if:

- (1) In the case of a savings association, the savings association has been chartered less than two years; or
- (2) Within the preceding two years of the proposed addition or employment, the savings association or savings and loan holding company has directly or indirectly undergone a change in control subject to the Change in Bank Control Act, 12 U.S.C. 1817(j) (or if a change in

control occurred prior to August 9, 1989, the Change in Savings and Loan Control Act, formerly 12 U.S.C. 1730(q), or the Savings and Loan Holding Company Act, 12 U.S.C. 1467a, and the regulations promulgated thereunder at 12 CFR part 574, or the Reports of change in control of mutual savings associations, 12 CFR 563.181, excluding, however, transactions involving existing approved control parties and acquisitions of control that do not result in substantive changes of control, as determined by the District Director upon written request; or

(3) In the case of a savings association, the savings association is not in compliance with all of its applicable regulatory capital requirements established pursuant to 12 CFR part 567 or the savings association or the savings and loan holding company is otherwise in a troubled condition, as defined herein.

(c) *Procedures*—(1) *Filing Requirements*. (i) Notices shall be filed in accordance with the filing procedures set forth in 12 CFR 500.32(c)(5). Except as noted in paragraph (c)(2) of this section, the Office's Form 1393 shall be used for all such notices filed. Copies of all forms referenced in this section may be obtained from the Office of Communications, Information Services Division at the address listed in § 500.32(a) of this chapter.

(ii) The notice shall be submitted by the savings association or savings and loan holding company; each individual on whose behalf a notice is filed must certify that, to the best of his or her knowledge and belief, all the information filed is true, correct, complete and made in good faith; and a senior official of the savings association or savings and loan holding company must certify that information pertaining to that individual has been reviewed by the filing savings association or savings and loan holding company and that the information submitted is consistent with information obtained through a background investigation conducted by the savings association or savings and loan holding company. Where the interests of the individual and the savings association or savings and loan holding company may be at odds, such as a proxy contest, the notice may be submitted to the Office directly by the individual. In such case, the individual must certify that he or she provided the savings association or savings and loan holding company all nonconfidential information contained in the notice and likewise, certify that, to the best of his or her knowledge and belief, all of the information filed is true, correct, complete and made in good faith.

(iii) After the initial receipt of a notice, the Office may require additional information.

(iv) The 30-day notice period will begin on the date the Office determines that all required information has been provided and notifies the savings association or savings and loan holding company that the notice is deemed complete.

(2) *Special Notice Rule for Publicly-Held Diversified Savings and Loan Holding Companies*. (i) With respect to multi-tiered diversified savings and loan holding companies with a class of equity securities registered under the Securities Exchange Act of 1934, the notification required by paragraph (c)(1) of this section will only be required for the savings and loan holding company that directly controls a savings association; provided, however, that if such company is without substantial assets other than the ownership of the subsidiary savings association, then the company that directly controls such savings and loan holding company shall also be subject to the notification requirement of paragraph (c)(1) of this section; further provided that, in the event the first indirect savings and loan holding company also is without substantial assets other than the ownership of the direct savings and loan holding company, then each company that directly and/or indirectly holds the indirect savings and loan holding company shall be subject to the notification requirement of paragraph (c)(1) of this section until a savings and loan holding company in the line of ownership that has substantial assets other than the indirect ownership of the savings association is subject to the notification requirement of paragraph (c)(1) of this section.

(ii) Other savings and loan holding companies in a multi-tier ownership structure described in paragraph (c)(2)(i) of this section may satisfy the notification requirement of paragraph (c)(1) of this section by submitting:

(A) An executed copy of the Office's RB-20 certification regarding the subject individual's involvement in certain types of legal proceedings, and

(B) Copies of all materials used in the savings and loan holding companies, securities disclosure documents, filed pursuant to the Securities Exchange Act of 1934, which provide information on the individual to which the notice pertains. Where such material is not available, then the regular notice requirements shall be applicable.

(iii) Notwithstanding the provisions of paragraphs (c)(2)(i) and (ii) of this section, the Office may require such

additional information as is necessary to adequately evaluate a notice.

(3) *Notice of Disapproval*. The Office may disapprove an individual proposed as a member of the board of directors or senior executive officer of a savings association or savings and loan holding company upon determining that, on the basis of the individual's competence, experience, character, or integrity, it would not be in the best interests of the depositors of the savings association or in the best interests of the public to permit the individual to be employed by, or associated with, the savings association or the savings and loan holding company. If the Office disapproves an individual, the savings association or savings and loan holding company will be notified. The notice of disapproval will contain a statement of the basis for disapproval.

(4) *Commencement of Service*. (i) An individual proposed as a member of the board of directors or senior executive officer of a savings association or savings and loan holding company may begin service 30 days after a complete notice under paragraph (c)(1) of this section has been accepted by the Office unless the Office issues a notice of disapproval of the proposed addition or employment by end of the 30-day period.

(ii) An individual proposed as a member of the board of directors or as a senior executive officer of a savings association or savings and loan holding company may begin service before the expiration of the 30-day period if the Office notifies the savings association or savings and loan holding company in writing of an intention not to disapprove the addition or employment.

(5) *Waiver of Prior Notice*. The Office may waive the prior notice requirement but not the filing of a notice under this section if the Office finds that delay would not be in the best interest of the savings association or the savings and loan holding company or the public interest, or that other extraordinary circumstances justify waiving the prior notice requirement of this provision. If a waiver is granted, the required notice shall be filed within the time period specified in the waiver. A waiver shall not affect the authority of the Office subsequently to issue a notice of disapproval within 30 days of the receipt of a complete notice under paragraph (c)(1) of this section.

(6) *Appeal*. Within 20 days of receipt of a notice of disapproval, the disapproved individual (if the notice was directly submitted by the individual as detailed in paragraph (c)(1)(ii) of this section), the savings association or savings and loan holding company may

appeal to the Office the disapproval on the grounds that the reasons given for disapproval are contrary to fact, that such reasons given are insufficient to justify disapproval, or both. The appeal shall be filed in accordance with the filing procedures set forth in 12 CFR 500.32(c)(2)(i). The appeal shall attach whatever documents and written arguments the appealing party wishes to be considered in support of the appeal. The notice of disapproval shall be sustained unless the appealing party clearly demonstrates that the disapproval is unjustified. Written notice of a final decision shall be sent to the appealing party. If an appeal is not filed within the time period required under this section, any objection to the notice of disapproval is waived. A timely appeal filed in accordance with the provision of this section shall be mandatory for securing judicial review of a notice of disapproval.

Date: March 11, 1991.

By the Office of Thrift Supervision.

Timothy Ryan,
Director.

[FR Doc. 91-18427 Filed 8-2-91; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-134-AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain British Aerospace Model ATP series airplanes, which currently requires repetitive visual inspections to detect cracks in the rudder lower hinge attachment brackets, and to check the security of the fasteners in this area, and repair, if necessary. This action would provide an additional terminating action for the repetitive inspections required by the existing AD. This proposal is prompted by a further evaluation by the FAA of the modification which provides terminating action for the repetitive inspections. This condition, if not corrected, could impair the operation of the rudder and result in reduced directional control of the airplane.

DATES: Comments must be received no later than September 17, 1991.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-134-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. **FOR FURTHER INFORMATION CONTACT:** Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-134-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On April 8, 1991, the FAA issued AD 91-09-13, Amendment 39-6979 (56 FR 18697, April 24, 1991), to require

repetitive visual inspections to detect cracks in the rudder lower hinge attachment brackets, and to check the security of the fasteners in this area, and repair, if necessary. That action was prompted by reports of cracked and loose or failed fasteners in the rudder lower hinge lower attachment rib angle brackets attached to the front spar of the rudder. This condition, if not corrected, could impair the operation of the rudder and result in reduced directional control of the airplane.

Since issuance of that AD, the FAA has evaluated further Modification 10170A, which is described in paragraph D. of the existing AD. The FAA has determined that, in addition to providing terminating action for the repetitive inspections required by paragraph A. (applicable to airplanes with rudders in pre-Modification 10165A configuration) and paragraph B. (applicable to airplanes with rudders fitted with Modification 10165A during production) of the existing AD, the installation of Modification 10170A also provides terminating action for the repetitive inspections required by paragraph C. (applicable to airplanes with rudders fitted with Modification 10165A in accordance with British Aerospace Service Bulletin ATP-55-4, or by previous repair or replacement action). This amendment proposes to include the installation of Modification 10170A as an additional means of terminating the repetitive inspections required by paragraph C. of the AD.

British Aerospace has issued Service Bulletin ATP-55-3, Revision 4, dated June 28, 1990, which describes procedures for repetitive visual inspections to detect cracks in the rudder lower hinge attachment brackets, and to check the security of the fasteners in this area, and repair, if necessary. The United Kingdom Civil Aviation Authority (CAA) has classified this service bulletin as mandatory.

British Aerospace has also issued Service Bulletin ATP-55-5, Revision 1, dated January 3, 1991, which describes procedures for the installation of Modification 10170A, including strengthening the rudder lower hinge ribs at Stations 29.582, 27.582, and 24.82. Accomplishment of this modification would eliminate the need for the repetitive inspections recommended by Service Bulletin ATP-55-3. The United Kingdom CAA has not classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal